IN THE DRAWINGS

Replacement Drawing Sheets with respect to Figures 1-5C are provided

herewith.

REMARKS

Reconsideration of the application as amended is respectfully requested.

An RCE accompanies this Amendment.

The Examiner has objected to the drawings as being informal. Applicants have therefore enclosed formal drawings as replacement sheets to overcome that objection. Applicants respectfully submit that the enclosed formal drawings do not add new matter.

The Examiner has objected to the specification because of alleged informalities. The specification has been amended at numbered paragraph 34 to remove references to the attorney docket numbers.

Claims 1-2 and 5 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,014,694 of Aharoni et al. ("Aharoni").

Claim 1 has been amended. New claims 6-11 have been added. The amendments and new claims are supported by numbered paragraphs 26, 28, and 29 of the specification and Fig. 4 of the drawings. Accordingly, no new matter has been introduced.

Applicants reserve all rights with respect to the applicability of the doctrine of equivalents.

Applicants submit that amended claim 1 is not anticipated by Aharoni under 35 U.S.C. § 102(b).

Aharoni discloses a system for adaptively transporting video over networks wherein the available bandwidth varies with time. The system comprises a video/audio codec that functions to compress, code, decode and decompress video streams that are transmitted over networks having available

7

bandwidths that vary with time and location. Depending on the channel

bandwidth, the system adjusts the compression ratio to accommodate a plurality

of bandwidths ranging from 20 Kbps for POTS to several Mbps for switched LAN

and ATM environments. Bandwidth adjustability is provided by offering a trade off

between video resolution, frame rate, and individual frame quality.

In contrast to Aharoni, amended claim 1 states that the control node is located in

a communication link between at least one server and at least one client, wherein the

control node comprises at least one control point.

Aharoni discloses in Fig. 1 and Fig. 15 a system for transporting video from at

least one video server over a network -- e.g., the Internet -- to at least one video client.

Aharoni does not disclose anything about nodes in the network between the video

server and the video client.

Furthermore, amended claim 1 states that the plurality of resonance points of

network performance metrics is determined at the control point, that the control node

comprises at least one control point, and that the control node is located in a

communication link between at least one server and at least one client.

In contrast, Aharoni discloses that a measurement of the bandwidth is done by a

rate control unit that is part of the server. Aharoni discloses the following:

> The bandwidth measurement method as executed by the
> rate control unit 106 in the sender will now be described in more
> detail. The bandwidth measurement method actually comprises two
> separate phases. The first phase being a scanned phase and the
> second being a fixed phase. In general, the bandwidth
> measurement-method operates by transmitting packets through the
> network connection and measuring the rate of reception of the
> packets at the client.

8

(Aharoni col. 13, lines 11-19).

The rate control unit 106 of Aharoni is located in the sender (see Fig. 9), which is located in the server (see Fig. 2). So in contrast to amended claim 1, bandwidth measurement in Aharoni is not performed at a control point between the server and the client.

Furthermore Aharoni teaches a determination of network performance metrics in the client. Aharoni discloses the following:

> During a real time transmission of video data, the client reports back status ad bandwidth related information to the video server via a reverse channel. Based on the number of transmission errors as well as the number of data packets lost, as communicated via the status and bandwidth information sent back to the server, the server make an online determination regarding the quantity of data to send to the client.

(Aharoni col. 17, lines 52-59).

So for Aharoni, the network performance metrics are not determined at a control point between the server and the client, but in the server and in the client.

Applicant therefore submits that amended claim 1 is not anticipated by Aharoni under 35 U.S.C. § 102(b).

Claims 2 and 5 depend from claim 1 and should be allowable for at least the same reasons as claim 1.

Claims 6 and 9 include limitations that are similar to those in claim 1, -- for example, with respect to location of the control node and the control point. Claims 6 and 9 thus should be allowable for at least the same reasons as claim 1.

Claim 7 and 8 depend from claim 6 and should be allowable for at least the same reasons as claim 6.

9

Claim 10 and 11 depend from claim 9 and should be allowable for at least the same reasons as claim 9.
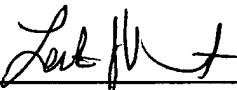
If is respectfully submitted that in view of the amendments and arguments set forth herein, the applicable rejections and objections have been overcome.

If there are any additional charges not covered by any check submitted, please charge them to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: _March 2, 2006_ _____

Lester J. Vincent
Reg. No. 31,460

12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025
(408) 720-8300